

REMARKS

Telephone Interview Summary

Applicant's representative Mr. Bruce Daise, along with Applicant's attorneys Mr. Jeffrey Standley and Carol Stovsky participated in a telephone interview with Examiner Fischetti on August 23, 2006 at 2:30 PM. Claim 11 was discussed. Applicant explained that the Longfield reference cited against the application is directed to loan and credit instruments and the use of a tax refund to secure a loan or credit card while the present invention is directed to a spending vehicle that a taxpayer receives instead of a tax refund or portion of a tax refund. Applicant also explained that the present invention does not rely on loan agreements as taught by Longfield. Examiner Fischetti suggested amending the claims to further distinguish the spending vehicles of the present invention over credit instruments as taught by Longfield.

Following the telephone interview, Applicant submitted additional informal responses to address the issues raised by the Examiner during the telephone interview. Examiner Fischetti proposed additional claim amendments based on Applicant's informal responses. Agreement was reached regarding the claims in this amendment.

Substitution of Specification under 37 CFR § 1.125

During the telephone interview, Examiner Fischetti requested a substitute specification that includes reference numbers to the figures in the drawings. To comply with the Examiner's request, Applicant respectfully requests that the enclosed specification be entered. In addition to amending the drawings and specification to include reference numbers, a description of the steps of the flowchart in Figure 1 has

been added. No new matter has been added to the specification. The substitute specification also has numbered paragraphs to facilitate examination of the application. Applicant is submitting with this response clean and marked copies of the substitute specification and substitute drawings. Therefore, Applicant respectfully requests that the enclosed substitute specification be entered under 37 CFR § 1.125 as a complete substitution for the previously submitted specification and amendments.

Claim Rejections Under 35 U.S.C. § 103

Claims 11, 12, 15, 17, 18, 20 and 21 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Longfield '523 in view of PREPAY? and CREDIT CARD NEWS. It is the Examiner's position Longfield '523 discloses Applicant's invention except for arranging among a tax preparer and a spending vehicle provider to offer a spending vehicle to a taxpayer. Applicant has amended the claims to more clearly define the present invention. In view of the amended claims, Applicant respectfully traverses the rejections.

Longfield teaches the use of an income tax refund as collateral for a loan or a secured credit card. The principle purpose of Longfield is to provide a taxpayer with credit in the form of a loan or credit card in anticipation of the receipt of a tax refund and to provide a taxpayer with a loan or credit card as soon as possible after filing of a tax return. Longfield states in Col. 2, ll. 1-2 that the system provides "... a tax refund payment within 24-48 hours." Longfield further states that "the system provides the tax filer with the benefit of having a tax return prepared and filed on one day and picking up a check at the same office for any refund due, less tax preparation fees and filing fees,

on the next day” With respect to the credit card option, Longfield states in Col. 6, ll. 12-18 “[t]his secured credit card option may be selected by the taxpayer when completing a RAL application along with the amount of credit line and corresponding collateral desired (usually anywhere from \$500-\$3000). Once the PAL (sic) application is approved a credit card can usually be mailed to the taxpayer within 48 hours by a credit card company.” Longfield explains in Col. 4, l. 66 to Col. 5, l.5 that “... the system of the invention permits a tax filer to obtain a refund loan with one or two days of filing his tax return through an authorized preparer directly or by mail from the participating authorized financial institution. This is in contrast to the **typical 6 to 8 weeks required to receive a refund** directly from the IRS.” (Emphasis added)

The Examiner asserts that it would be obvious to modify Longfield to include a prepaid card because prepaid cards complement credit cards. Applicant respectfully disagrees. Prepaid cards and other spending vehicles with a predetermined or preset value are not credit instruments as taught by Longfield. In fact, the PREPAY? reference relied upon by the Examiner explains that prepaid cards are “pay before” instruments that differ from credit “pay later” and debit “pay now” instruments. Prepaid cards do not require credit agreements. Longfield teaches away from the present invention by teaching the issuance of credit instruments that use a tax refund as collateral. Use of the tax refund as collateral is important in Longfield because the goal in Longfield is to provide the taxpayer with use of the tax refund in the form of a credit instrument as soon as possible after filing of a tax return. Applicant respectfully submits that because Longfield teaches away from non-credit instruments, it would not be obvious to replace the credit instruments of Longfield with spending vehicles of preset value. In the

present invention, a spending vehicle with a preset value may be a card with a fixed value (e.g., \$100 gift card) or a value that is calculated and loaded on a card (e.g., refund amount plus 10%). In either case, the spending vehicle is not a credit instrument for which the tax refund is used as collateral and that requires a loan or credit agreement.

Applicant further respectfully submits that if Longfield is modified to include a spending vehicle of predetermined value or other non-credit instrument, it would change the principle operation of Longfield which is to offer a taxpayer anticipating a tax refund credit in the form of a loan or credit card. Longfield uses a loan application and related credit instrument in anticipation of a tax refund so that a taxpayer may be provided with "access" to the tax refund within 24-48 hours instead of the typical six to eight weeks the taxpayer would otherwise be required to wait. The purpose of Applicant's invention is entirely different and when combined with Longfield, changes the principle operation of Longfield. Applicant explains clearly in the specification that the invention is not related to credit instruments and that the present invention does not rely on loan agreements. (P. 2, ll. 14-16: the present invention differs from prior systems in which the tax filer has received access to a loan amount in anticipation of receiving a tax refund; P. 2, ll. 19-22: "[u]nder the prior loan systems the tax filer was required to enter into a loan agreement with the loan providing institution. Due to regulatory banking laws, these loan agreements could be lengthy and cumbersome. Under the system of the present invention, loan agreements are not necessary.")

In Applicant's invention, the assignee accepts the risks of non-payment which are separate and different from the credit teachings of Longfield which require the taxpayer

to remain liable on a loan or credit card. The payment may be used to compensate either or both of the tax system provider and the assignee for various costs associated with administration of the spending vehicle program such as processing of the taxpayer's spending vehicle selection and the cost of the selected spending vehicle. Furthermore, with Applicant's invention, an assignee may wait to issue a spending vehicle until after assurance of the accuracy of the tax refund is received from the tax authority which is also contrary to the teachings of Longfield. Applicant respectfully submits that none of the prior art references cited by the Examiner teach or even suggest eliminating the loan application from Longfield or providing the taxpayer's with "access" to the refund in any manner other than using credit. Therefore, Longfield cannot be combined with other references to reject the claims of application.

Applicant has amended claim 12 to further clarify the invention. Applicant deleted a reference to "credit card" and added a reference to "gift card." The prior reference to a credit card was intended to cover a situation in which a surplus amount is added to a credit card account to create a positive balance. To eliminate any confusion that a credit instrument is within the scope of the present invention, the reference to a credit card as a spending vehicle has been deleted from the pending claims. A "gift card" as a spending vehicle was added to claim 12.

Applicant has also amended claim 11 to further clarify the invention. Amended claim 11 indicates that an agreement between the taxpayer and spending vehicle provider is executed as part of the tax preparation process, that the agreement does not result in issuing a loan or credit to the taxpayer, and that the obligations of the taxpayer and spending vehicle provider occur upon submission of the tax return to a taxing

authority. Amended claim 11 also indicates that the spending vehicle issued to the taxpayer has a prepaid value corresponding to the assigned portion of the tax refund and a designated retailer where the taxpayer redeems the spending vehicle to purchase products or services. It is respectfully submitted amended claim 11 patentably defines the present invention.

Respectfully submitted,

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